

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:
Anthony V. Cruz

Appeal No. 2003-0240

App. No.: 09/435,507

Filed: November 8, 1999

Examiner: S. C. Wink

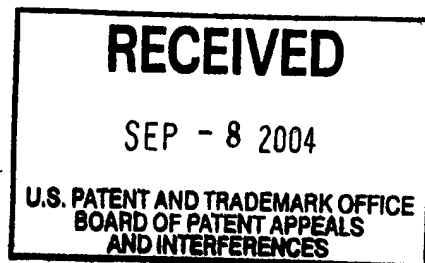
Docket No.: 0198

Art Unit: 2162

For: PORTABLE ELECTRIC HAIR DRYER AND MOUNT THEREOF

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

REQUEST FOR RECONSIDERATION



By a Decision on Appeal dated April 30, 2003, this Board:

A. Affirmed the decision of the examiner to reject
claims 1, 8, 15 and 16 under 35 U.S.C. §102(b);

B. Reversed the decision of the examiner to reject
claims 2 to 5 and 9 to 12 under 35 U.S.C. §102(b);

C. Affirmed the decision of the examiner to reject
claims 6 and 13 under 35 U.S.C. §103; and

CERTIFICATE OF MAILING

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By MARILYN GIBAS -1-
Marilyn Gibas
Date June 27, 2003

D. Patricia Lewis
#19/rev for
reconsideration
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D. Reversed the decision of the examiner to reject claims 7 and 14 under 35 U.S.C. §103.

Appellant now requests reconsideration and reversal of the Board's decision to affirm the examiner's decision to reject claims 1, 8, 15 and 16 under 35 U. S. C. §102(b) and the Board's decision to affirm the examiners decision to reject claims 6 and 13 under 35 U.S.C. §103. This request is filed in triplicate.

Comments in Support of Request

There is one simple basis upon which counsel urges reversal of the Board's decision with respect to the claims which stand rejected. On page 4 of the Board's decision, in its discussion of appellant's claim 1 vis-a-vis the Andis patent 5,590,475, the Board effectively held that the Andis holder 17 has but two faces, a front face appearing in FIGS. 1 and 2 and a rear face which confronts the wall 13. However, the Andis holder also has faces which are neither front faces nor rear faces but are faces located on planes perpendicular to the wall 13. These are the "laterally spaced walls or surfaces 95 and 97."

In use, the Andis hair dryer must be turned sideways so that its off on switch 21 engages the wall 95. In contrast,

appellant's power switch engages a front face of the wall mount, i.e. a face which faces away from the supporting wall. This enables appellant's construction in which the hair dryer may simply be pointed at the hair dryer during the acts of the mounting the hair dryer on the wall mount or removing the hair dryer from the wall mount.

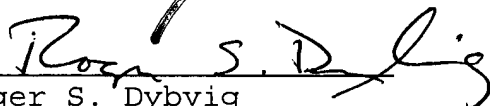
Claim 1, the only independent claim in this application, specifies that the front face of the wall mount "has a switch-engaging surface portion adapted to engage said switch operating member to open said switch as said appliance is assembled onto said wall mount..." Such a construction is not shown by Andis so the rejection of claims 1, 8, 15 and 16 under 35 U.S.C. §102(b) should be reversed.

The Board's decision to affirm the examiner's decision to reject of claims 6 and 13 under 35 U.S.C. §103 was based on the reasoning stated on page 7 of the Board's decision that: "Andis teaches all the limitations of claim 6 and parent claim 1." That this reasoning is not well founded is apparent from the foregoing. No combination of Andis with the disclosure of the secondary reference, Chan patent no. 5,857,263, would result in or suggest changing the location of the Andis switch engaging surface.

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For the reasons stated, claims 1, 6, 8, 13, 15 and 16 are deemed allowable and the examiner's decision to reject these claims should be reversed.

Respectfully submitted,



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